

February 6, 2006

The Common Council met as the Water Utility Board at 7:00 p.m. on the above date in the Meeting Room at City Hall Annex with Mayor Knowles presiding and members Askren, Tucker, Rueger, Angel, and Cooper attending. Others attending were Attorney Funkhouser; Chief Beloit; Chief Webber; Supt. Gray; Betty Johnson; Belinda Jones; Wendy Wightman; Matt Coyle; Jacob Christian; Paula Rudibaugh; Jim O'Connor - Countrymark; Ryan Harms; Sis Claxton; Ann Blackburn; Ryan Emery; Vince Schu - Consolidated Grain & Barge; Larry Williams; Beth Folz - McFadin Higgins & Folz; Phil Wilzbacher; Lorelei Barnes; Jamie Grabert - Posey County News; and Tiffani Eisenhut - Mount Vernon Democrat; and arriving during the meeting, Chris Janak - Bose McKinney.

Mayor Knowles called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. She added if not, she entertains a motion to waive their reading and to approve the minutes as presented.

Councilwoman Askren moved the reading of the minutes be waived and they be approved as presented. Seconded by Councilman Angel.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles reminded the Audience that anyone wishing to address the Board should approach the podium and state their name and the nature of their business.

Mayor Knowles requested action on the claims presented.

Councilman Rueger moved payment on all claims be permitted, with the exception of the Posey County Chamber of Commerce, as the City is already a member. Seconded by Councilwoman Askren.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

\*\*\*\*\*CLAIMS\*\*\*\*\*

Water Operating & Maintenance \$ 32,199.30

Water Consume Meter Deposit 150.00

Water Works Revenue 271,029.05

Mayor Knowles stated they will now hear the report of the Water Superintendent.

Supt. Gray started his report with a public announcement: Thursday and Friday they will be doing testing all over town for the water modeling and he recommends no one do laundry on those days as the water may be dirty and rusty.

Chris Janak arrived at the meeting.

Supt. Gray then stated there are two old Evapar air compressors at the utility that he would like to declare junk and get rid of. He added the company that originally sold them the air compressors wants to buy them back at a cost of \$150.00 each.

Attorney Funkhouser asked if they are truly junk ?

Supt. Gray replied yes, one for sure.

Attorney Funkhouser asked the approximate value ?

Supt. Gray replied they are actually worthless to him.

Attorney Funkhouser stated in that case, he may dispose of them any way he wants.

Councilman Cooper moved Supt. Gray be permitted to declare the air compressors junk and make the best deal that he can. Seconded by Councilman Angel.

Mayor Knowles moved all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Supt. Gray then stated at the last meeting meter deposit rates had come up and he stated increasing them was discussed but never codified. He added the water meter deposit is \$51.00, and again, it was only discussed.

Mayor Knowles stated it was increased from \$41.00 to \$51.00.

Councilwoman Askren suggested Attorney Funkhouser draw up the ordinance to increase the meter deposit.

Attorney Funkhouser added Beth McFadin Higgins will probably actually draw up the ordinance as she will be the Utility Board attorney.

Mayor Knowles asked if there were any questions ?

There were none.

Mayor Knowles asked if the Financial Report was prepared yet ?

Clerk-Treasurer Wolfe replied no, not yet.

Mayor Knowles asked if the Clerk-Treasurer had any Communications for the Board ?

Clerk-Treasurer Wolfe replied not at this time.

Mayor Knowles stated the first item on the Legal portion of the Agenda is discussion on the under drain filter beds.

Councilman Cooper stated they took no action last meeting, in the absence of Attorney Funkhouser. He then moved MAI be permitted to proceed to IDEM for approval and the construction permit. Seconded by Councilwoman Askren.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles stated the next item listed is discussion the Posey County jail water issue. She then stated possibly Attorney Janak will update later, they should table for now.

Councilman Cooper stated the Utility Board has a contract from McFadin Higgins & Folz with a proposal to perform attorney services for the Utility Board. He then moved the Utility Board accept the proposal from McFadin Higgins & Folz for Beth McFadin Higgins to take over attorney duties for the Utility Board. Seconded by Councilman Tucker.

Mayor Knowles asked if there was any discussion ?

Councilman Cooper asked if they need to approve the firm, and not Ms. McFadin Higgins by name ?

Attorney Funkhouser stated he will amend his contract to take out the portion that is water retainer. He then questioned the Morley lawsuit.

Councilman Cooper replied Ms. McFadin Higgins is familiar with the case, she can take it from here.

Attorney Funkhouser replied that would be a good idea, to keep all water issues with her.

Mayor Knowles stated if there was no further discussion, she requests a roll call vote.

Roll was called by the Clerk-Treasurer with the Board voting as follows:

Askren - yes; Tucker - yes; Rueger - yes;

Angel - yes; Cooper - yes.

Mayor Knowles stated the motion carried unanimously.

Mayor Knowles asked if anyone in the Audience wished to address the Board ?

There was no response.

Mayor Knowles stated under Old Business, she asked which Board members could make the next Utility Board update meeting.

Councilman Angel replied he could.

Councilman Cooper stated he also could attend.

Mayor Knowles stated after the last Council meeting Councilman Tucker went to the paper, there was an article about the Utility Board's discussion on commercial rate users, it seems he feels he is being withheld information. She added Councilman Tucker feels the city is not charging commercial users their fair share. She stated Ted Sommers with London Witte sent the Board a letter dated March 7, 2005, that discusses this very issue. She then read the following letter received in response to her phone call after the last Board meeting:

INSERT I

Mayor Knowles then stated that the Mount Vernon Democrat ran the article, though she encouraged them not to. She added during her conversation with the paper, she cited two water experts, though one she could not remember his name at the time, it was Kerry Heide, from Newburgh. She added Mr. Heide said if the city looked into the issue of charges to commercial users, he was not confident that they were paying too much. She also stated that if commercial users are charge less, the residential users will be charged more, the very people Councilman Tucker is trying to protect. She added the amount of money needed is the same and it has to come from one of the two groups of rate payers.

Councilman Tucker replied, obviously. He then stated the Mayor blindsided him at the last meeting about this issue, while they were discussing the landlord/tenant ordinance.

Mayor Knowles she is not clear on what Councilman Tucker is referring to.

Councilman Tucker replied she just blind sided him again tonight.

Mayor Knowles stated Councilman Tucker can come to the update meeting at anytime, so he is up on all of these things.

Councilman Tucker asked if this was discussed at tonight's update meeting ?

Councilman Cooper replied yes, it was discussed tonight.

Councilman Tucker stated the Mayor denied knowing anything about the letter sent by London Witte on March 7, 2005, she said she knew nothing about that.

Mayor Knowles replied she thought Councilman Tucker got his figures on the cost to produce a gallon of water from EMC. She did not deny the letter, she asked where he had gotten his information.

Councilman Tucker stated that if the Mayor had any information on that, she should have shared it and is obligated to share it with the Board.

Mayor Knowles replied she is confused. She stated the reason she did not share was that she did not want to open this can of worms, it is a liability to the city of potential loss of revenue.

Councilman Tucker stated this is the Utility Board meeting, not hers, please let him finish. He then read the following letter received March 7, 2005:

INSERT II

Councilman Tucker stated the cost quoted is assuming that every single gallon water

produced is paid for, which as they all know, is not the case. He added Mr. Williams, of

EMC, said the actual cost is closer to \$3.26 per gallon. He added the \$2.77 and the \$3.26

1000 gallons are not his figures. He never said he knew anything on what it costs to

produce a gallon of water, and if the water utility is making money now, that is fine.

Mayor Knowles replied she never said the utility was making money.

Councilman Tucker added she blindsided him at a meeting.

Mayor Knowles stated she did not blind side him, she just asked him not to speak on that

topic again as it could hurt the city and our revenues.

Councilman Tucker stated London Witte did a good job on their estimate, but he feels Mr. Williams is probably closer.

Mayor Knowles stated she disagrees, EMC is hardly a neutral party, as they were the contractor hired to manage the water department, that was then fired before the end of their contract.

Councilman Tucker stated London Witte's figure is the one the city paid for, and if their figures are correct, it does not look like the residential users are being treated fairly. He added there is a quote in one of EMC's letters something to the effect that if someone tortures figures long enough, they will confess to almost anything.

Mayor Knowles stated if Councilman Tucker would rather believe the figures provided by EMC, a contractor fired before the end of their contract, well then, that is fine. She added Councilman Tucker is taking information from both letters.

Councilman Tucker stated they can discuss this all night, he then suggested they get the tape out of the meeting.

Mayor Knowles agreed, they should get the tape out. She added she did not deny anything, she just does not recall this.

Councilman Tucker stated he did not know she was going to bring this up, she blind sided him.

Mayor Knowles stated she can not recall a letter that was written a year and a half ago, or an experts name.

Councilman Tucker stated those are not his figures, they are London Witte's figures, and the city paid \$15,000.00 for the rate study for water and sewer. He added they are simply not being paid for all the water they are producing.

Mayor Knowles asked the other Board members if they would like for her to bring Mr. Heide to a meeting ? She stated she will, but the Board should be prepared, she wants this solved and she is not withholding anything.

Councilman Tucker stated there is a lot of unknowns out there and a lot of obligations.

Mayor Knowles stated Councilman Tucker says the commercial users are not paying their fair share, though Chris Janak and Ted Sommers last year came to a meeting and discussed this with the Board and had pointed the city in the direction of Mr. Heide.

Councilman Angel added it was stated the Board is lucky to have experts this close.

Mayor Knowles stated she feels an obligation to do what is right and to protect the residential users, and Councilman Tucker could be hurting the very people he wants to protect.

Councilman Tucker stated there she goes again, and added he will not stoop to the Mayor's lowness, she is breaking the water works. He added she is spending a lot of money down there.

Mayor Knowles replied she is not spending a dime at the water works, the Utility Board spends the money.

Councilman Tucker replied he is talking about attorney fees, they used to range between \$7,000 and \$15,000.00.

Mayor Knowles stated most of the increase is due to the Morley case and in 2004 there was not one dime paid to Ice Miller on the Morley case, not one dime's benefit to the taxpayers either on that case.

Councilman Tucker stated he is speaking of 2005.

Mayor Knowles asked if has those figures, like the annexation list that he never gave her.

Councilman Tucker stated they should discuss how the Mayor fills up her SUV with the city gas card.

Mayor Knowles replied what ? She then stated she has never had a gas card and filled up her car on a city gas card.

Councilwoman Askren replied the Mayor does not do that, it was discussed at the Board of Works, but she decided not to do that.

Mayor Knowles added Jack Higgins turned in mileage for 30 years and there was not one thing mentioned, NOW mileage is a huge ordeal. She added she has Mr. Higgins' mileage claims, she can pull them out for the Board.

Attorney Funkhouser stated a small percentage of the Morley bills were paid to him, Ice Miller was hired to handle that. He added he also does not handle bond issues.

Mayor Knowles stated she spends no money for the Water Utility Board, nor does she manage or manipulate the Board in any way, she has no voting powers whatsoever, end of story. She added she can get some numbers from Wanda.

Councilman Tucker stated \$130,000.00 was spent in attorney fees last year between Bose McKinney, Bonar, Mr. Funkhouser, etc.

Mayor Knowles stated that most of that was the EMC litigation, annexation, etc.

Councilman Tucker stated he is just saying they need to curtail spending.

Mayor Knowles replied that Bonar is not a law firm, they did the fiscal policy/plan.

Councilman Cooper asked if the Mayor could give them the number for Mr. Heide, he would like to have it ?

Mayor Knowles replied sure, he is hard to get a hold of, he could also call Ted Sommers to get in contact with him on his personal phone. She then asked if there were any questions ?

Councilman Cooper stated he would like to call Mr. Heide and discuss it later.

Mayor Knowles asked if there was any New Business ?

There was none.

Mayor Knowles stated if there were no further business, she entertains a motion to adjourn.

Councilman Rueger moved the meeting be adjourned. Seconded by Councilman Cooper.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously and adjourned the meeting.

---

Rosemary L. Knowles

Mayor

ATTEST:

---

Cristi L. Wolfe

Clerk-Treasurer